

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE ON
EMINENT DOMAIN**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

November, 2005

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY DIRECTIVE

The Indiana General Assembly enacted HEA 1063-2005 (P.L.173-2005) directing the Committee to do the following:

- (1) Study the use of eminent domain, especially where the proposed use of the property being acquired by eminent domain does not relate directly to providing a governmental service or fulfilling a governmental responsibility but is, rather, a commercial use.
- (2) Study criteria that could be applied when the acquisition of property by eminent domain for a commercial use is proposed, including the following:
 - (A) Minimum price offers to the owner of the real property.
 - (B) Significance of promoting or retaining gainful employment.
 - (C) Significance of business opportunities.
 - (D) Whether the real property is located within an area in which normal development and occupancy are undesirable or impossible for the following reasons:
 - (i) Deterioration of improvements.
 - (ii) Obsolescence.
 - (iii) Substandard buildings.
 - (iv) Excessive numbers of vacant, abandoned, or illegally used properties.
 - (v) Unsanitary or unsafe conditions.
 - (vi) Life or property endangering conditions.

II. SUMMARY OF WORK PROGRAM

The Committee met three times during the 2005 interim session on August 10, 2005, September 21, 2005, and October 27, 2005.

At the August 10, 2005, meeting, the Committee took testimony from Steven Anderson, Coordinator of the Castle Coalition of the Institute for Justice, Samuel R. Staley, Ph. D., Director of Urban and Land Use Policy at the Reason Foundation and Adjunct Scholar at the Indiana Policy Review Foundation, Matthew Brase from the Indiana Association of Cities and Towns (IACT), Mishawaka Mayor Jeff Rea, Angie Bixler from the Association of Indiana Counties, Shaw Friedman, LaPorte County Attorney, Bob Kraft from Indiana Farm Bureau, Rick Hurst from the N.K. Hurst Company in Indianapolis, Indiana, and several other members of the public. The Committee discussed several options that could be used to address eminent domain issues.

At the September 21, 2005, meeting, the Committee heard a basic summary of eminent domain law in Indiana from Kurt Webber, an attorney from Carmel, Indiana. The Committee also took testimony from Rick Hurst from the N.K. Hurst Company in Indianapolis, Tom Bodkin, Town Attorney for Newburgh, Indiana, and several other members of the public. Rep. Wolkins

asked the Committee members to send him their recommendations concerning changes to Indiana eminent domain law before the final meeting.

At the final meeting on October 27, 2005, the Committee took testimony from Matthew Brase and Jodie Woods from IACT and other members of the public. After Committee discussion of several proposed recommendations, a motion was made and seconded that the Committee should recommend that eminent domain should only be used for traditional public uses, such as the construction of roads, bridges, and schools. The motion failed by a show of hands. A motion was then made and seconded that legislation should be introduced during the 2006 session to amend eminent domain laws to address what is considered just compensation for property owners when their land is taken by use of eminent domain, to require that no reasonable alternative to the use of eminent domain is available before eminent domain may be used, to require the condemnor to pay reasonable attorney's fees in an eminent domain action, to establish time limits on government entities to use properties taken by eminent domain, to amend the definition of "blighted property," and to define "economic development." The motion was approved unanimously by a show of hands.

The Committee is not required to file a final report. For additional details of the Committee's proceedings, meeting minutes for the Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.